

SENATE BILL 691

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2003 Regular Session
3r2529
CF HB 752

By: **Senator Astle**

Introduced and read first time: February 14, 2003

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Electricity Regulation - Clean Energy Portfolio Standards and Credit**
3 **Trading - Maryland Clean Energy Fund**

4 FOR the purpose of requiring the Public Service Commission to establish clean
5 energy portfolio standards for retail electricity sales during certain years;
6 requiring certain standards to be met by the accumulation of clean energy
7 credits; providing for the eligibility of certain energy under a certain
8 circumstance; requiring calculations of credits for certain sources of energy;
9 requiring electricity suppliers to submit a certain annual report to the
10 Commission; requiring electricity suppliers to pay a compliance fee under a
11 certain circumstance; establishing a Maryland Clean Energy Fund for a certain
12 purpose; requiring the Treasurer and the Comptroller of the State to perform
13 certain functions related to the Fund; requiring the Commission to make certain
14 payments to certain owners of eligible energy resources at a certain time;
15 authorizing supplemental payments at a certain time; requiring the
16 Commission to establish and maintain a clean electricity trading system that
17 includes a registry; authorizing the Commission to contract with another
18 corporation for a certain purpose; requiring the registry to provide certain
19 information to certain persons; authorizing the sale and transfer of clean energy
20 credits; establishing a time limit for the existence of clean energy credits, except
21 under certain circumstances; authorizing the Commission to impose an
22 administrative fee on certain transactions; requiring the Commission to adopt
23 certain regulations; specifying intents and findings of the General Assembly;
24 defining certain terms; requiring the Commission to provide for electricity
25 suppliers to recover certain costs and fees; repealing certain provisions relating
26 to requirement that an electric company continue to purchase certain electricity
27 under certain contracts and to provide a certain percentage of renewable energy
28 sources; repealing an obsolete reporting requirement; providing for a delayed
29 effective date of certain provisions of this Act; and generally relating to the
30 establishment of clean energy portfolio standards, a clean electricity credit
31 trading system, and a Maryland Clean Energy Fund.

32 BY repealing and reenacting, without amendments,
33 Article - Public Utility Companies
34 Section 1-101(a) and (j)

1 Annotated Code of Maryland
2 (1998 Volume and 2002 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Public Utility Companies
5 Section 7-516
6 Annotated Code of Maryland
7 (1998 Volume and 2002 Supplement)

8 BY adding to
9 Article - Public Utility Companies
10 Section 7-701 through 7-711 to be under the new subtitle "Subtitle 7. Clean
11 Energy Portfolio Standard"
12 Annotated Code of Maryland
13 (1998 Volume and 2002 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Public Utility Companies**

17 1-101.

18 (a) In this article the following words have the meanings indicated.

19 (j) (1) "Electricity supplier" means a person:

20 (i) who sells:

- 21 1. electricity;
- 22 2. electricity supply services;
- 23 3. competitive billing services; or
- 24 4. competitive metering services; or

25 (ii) who purchases, brokers, arranges, or markets electricity or
26 electricity supply services for sale to a retail electric customer.

27 (2) "Electricity supplier" includes an electric company, an aggregator, a
28 broker, and a marketer of electricity.

29 (3) "Electricity supplier" does not include:

30 (i) the following persons who supply electricity and electricity
31 supply services solely to occupants of a building for use by the occupants:

- 1 1. an owner/operator who holds ownership in and manages
2 the internal distribution system serving the building; or
- 3 2. a lessee/operator who holds a leasehold interest in and
4 manages the internal distribution system serving the building; or
- 5 (ii) a person who generates on-site generated electricity.

6 SUBTITLE 7. CLEAN ENERGY PORTFOLIO STANDARD.
7 7-701.

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (B) "CLEAN ENERGY CREDIT" MEANS A CREDIT EQUAL TO 100 KILOWATT
11 HOURS OF RETAIL ELECTRICITY IN THE STATE THAT IS DERIVED FROM ELIGIBLE
12 ENERGY RESOURCES OR TRANSITIONAL ENERGY RESOURCES.

13 (C) "CLEAN ENERGY PORTFOLIO STANDARD" MEANS THE PERCENTAGE OF
14 ELECTRICITY SALES AT RETAIL IN THE STATE THAT IS TO BE DERIVED FROM
15 ELIGIBLE ENERGY RESOURCES OR TRANSITIONAL ENERGY RESOURCES.

16 (D) "ELIGIBLE ENERGY RESOURCE" MEANS ONE OR MORE OF THE FOLLOWING
17 TYPES OF ENERGY SOURCES:

18 (1) SOLAR;

19 (2) WIND;

20 (3) QUALIFYING BIOMASS;

21 (4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC
22 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

23 (5) GEOTHERMAL;

24 (6) HYDROELECTRIC POWER FROM A HYDROELECTRIC FACILITY WITH A
25 NET CAPACITY OF 30 MEGAWATTS OR LESS; OR

26 (7) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND
27 THERMAL DIFFERENCES.

28 (E) "FUND" MEANS THE MARYLAND CLEAN ENERGY FUND ESTABLISHED
29 UNDER § 7-706 OF THIS SUBTITLE.

30 (F) (1) "QUALIFYING BIOMASS" MEANS A SOLID, NONHAZARDOUS,
31 CELLULOSIC WASTE MATERIAL THAT IS SEGREGATED FROM OTHER WASTE
32 MATERIALS AND IS DERIVED FROM:

1 (I) EXCEPT FOR OLD GROWTH TIMBER, ANY OF THE FOLLOWING
2 FOREST-RELATED RESOURCES:

- 3 1. MILL RESIDUE;
- 4 2. PRECOMMERCIAL THINNING;
- 5 3. SLASH;
- 6 4. BRUSH; OR
- 7 5. YARD WASTE;

8 (II) A WASTE PALLET, CRATE, OR DUNNAGE;

9 (III) AGRICULTURAL SOURCES, INCLUDING:

- 10 1. POULTRY WASTE; AND
- 11 2. TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES,
12 SUGAR, AND OTHER CROP BY-PRODUCTS OR RESIDUES; OR

13 (IV) COFIRED BIOMASS, SUBJECT TO THE CONDITION UNDER §
14 7-704(E) OF THIS SUBTITLE.

15 (2) "QUALIFYING BIOMASS" DOES NOT INCLUDE UNSEGREGATED
16 MUNICIPAL SOLID WASTE OR POSTCONSUMER WASTEPAPER.

17 (G) "TRANSITIONAL ENERGY RESOURCE" MEANS ONE OR MORE OF THE
18 FOLLOWING TYPES OF ENERGY SOURCES:

- 19 (1) METHANE GAS DERIVED FROM DECOMPOSING COAL;
- 20 (2) HYDROELECTRIC POWER DERIVED FROM A HYDROELECTRIC
21 FACILITY WITH A NET CAPACITY OF GREATER THAN 30 MEGAWATTS; AND
- 22 (3) MANUFACTURED OR COMMERCIAL WASTE-TO-ENERGY.

23 7-702.

24 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

- 25 (1) RECOGNIZE THE ECONOMIC, ENVIRONMENTAL, AND FUEL
26 DIVERSITY BENEFITS OF CLEAN RENEWABLE ENERGY RESOURCES;
- 27 (2) ESTABLISH A MARKET FOR ELECTRICITY FROM THESE RESOURCES
28 IN MARYLAND; AND
- 29 (3) LOWER THE COST TO CONSUMERS OF ELECTRICITY FROM THESE
30 RESOURCES.

1 (B) THE GENERAL ASSEMBLY FINDS THAT:

2 (1) THE BENEFITS OF ELECTRICITY FROM CLEAN RENEWABLE ENERGY
3 RESOURCES ACCRUE TO THE PUBLIC AT LARGE; AND

4 (2) ELECTRICITY SUPPLIERS AND CONSUMERS SHARE AN OBLIGATION
5 TO DEVELOP A MINIMUM LEVEL OF THESE RESOURCES IN THE ELECTRICITY SUPPLY
6 PORTFOLIO OF THE STATE.

7 7-703.

8 (A) (1) THE COMMISSION SHALL ESTABLISH A CLEAN ENERGY PORTFOLIO
9 STANDARD THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS
10 SUBSECTION, APPLIES TO ALL RETAIL ELECTRICITY SALES IN THE STATE BY
11 ELECTRICITY SUPPLIERS.

12 (2) A CLEAN ENERGY PORTFOLIO STANDARD MAY NOT APPLY TO
13 ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER TO:

14 (I) RESIDENTIAL CUSTOMERS IN A REGION OF THE STATE IN
15 WHICH ELECTRICITY PRICES FOR RESIDENTIAL CUSTOMERS ARE SUBJECT TO A
16 FREEZE OR CAP CONTAINED IN A SETTLEMENT AGREEMENT ENTERED INTO UNDER
17 § 7-505 OF THIS TITLE UNTIL THE FREEZE OR CAP HAS EXPIRED;

18 (II) A MANUFACTURER WITH A PEAK DEMAND IN EXCESS OF 1,500
19 KILOWATTS; OR

20 (III) A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE UNDER
21 AN ELECTRICITY SUPPLIER PURCHASE AGREEMENT THAT EXISTED ON OCTOBER 1,
22 2003, UNTIL THE EXPIRATION OF THE AGREEMENT.

23 (B) THE CLEAN ENERGY PORTFOLIO STANDARD SHALL BE:

24 (1) 0.5% IN 2006;

25 (2) 1% IN 2007;

26 (3) 2% IN 2008;

27 (4) 3% IN 2009;

28 (5) 4% IN 2010;

29 (6) 5% IN 2011;

30 (7) 6% IN 2012; AND

31 (8) 7% IN 2013 AND EACH YEAR THEREAFTER.

32 (C) BEFORE CALCULATING THE NUMBER OF CREDITS REQUIRED TO MEET
33 THE PERCENTAGES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN

1 ELECTRICITY SUPPLIER SHALL EXCLUDE FROM ITS TOTAL RETAIL ELECTRICITY
2 SALES ALL RETAIL ELECTRICITY SALES TO CUSTOMERS DESCRIBED IN SUBSECTION
3 (A)(2) OF THIS SECTION.

4 (D) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRICITY
5 SUPPLIER SHALL MEET THE CLEAN ENERGY PORTFOLIO STANDARD BY
6 ACCUMULATING THE EQUIVALENT AMOUNT OF CLEAN ENERGY CREDITS THAT
7 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

8 7-704.

9 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
10 ENERGY IS ELIGIBLE FOR INCLUSION IN MEETING THE CLEAN ENERGY PORTFOLIO
11 STANDARD IF IT IS GENERATED FROM AN ELIGIBLE ENERGY RESOURCE AT A
12 FACILITY THAT DID NOT PRODUCE ENERGY FROM AN ELIGIBLE ENERGY RESOURCE
13 BEFORE JANUARY 1, 2003.

14 (2) ENERGY IS ELIGIBLE FOR INCLUSION IN MEETING THE CLEAN
15 ENERGY PORTFOLIO STANDARD THROUGH 2013 IF IT IS GENERATED FROM A
16 TRANSITIONAL ENERGY RESOURCE AT A SYSTEM OR FACILITY THAT EXISTED ON
17 JANUARY 1, 2003.

18 (B) ON OR AFTER OCTOBER 1, 2003, AN ELECTRICITY SUPPLIER MAY:

19 (1) CREATE CLEAN ENERGY CREDITS; AND

20 (2) ACCUMULATE CLEAN ENERGY CREDITS UNDER THIS SUBTITLE.

21 (C) ON OR BEFORE DECEMBER 31, 2014, AN ELECTRICITY SUPPLIER SHALL
22 RECEIVE DOUBLE CREDIT TOWARD MEETING THE CLEAN ENERGY PORTFOLIO
23 STANDARD FOR ENERGY DERIVED FROM THE FOLLOWING SOURCES:

24 (1) SOLAR ENERGY; OR

25 (2) FUEL THAT IS:

26 (I) DERIVED FROM AN ELIGIBLE ENERGY RESOURCE; AND

27 (II) USED IN A FUEL CELL.

28 (D) ON OR BEFORE DECEMBER 31, 2005, AN ELECTRICITY SUPPLIER SHALL
29 RECEIVE 125% CREDIT TOWARD MEETING THE CLEAN ENERGY PORTFOLIO
30 STANDARD FOR ENERGY DERIVED FROM WIND.

31 (E) AN ELECTRICITY SUPPLIER SHALL RECEIVE CREDIT TOWARD MEETING
32 THE CLEAN ENERGY PORTFOLIO STANDARD FOR ELECTRICITY DERIVED FROM THE
33 BIOMASS FRACTION OF BIOMASS COFIRED WITH OTHER FUELS.

1 7-705.

2 (A) EACH ELECTRICITY SUPPLIER SHALL SUBMIT AN ANNUAL REPORT TO THE
3 COMMISSION, ON A FORM AND BY A DATE SPECIFIED BY THE COMMISSION, THAT:

4 (1) (I) DEMONSTRATES THAT THE ELECTRICITY SUPPLIER HAS
5 COMPLIED WITH THE APPLICABLE CLEAN ENERGY PORTFOLIO STANDARD UNDER §
6 7-703 OF THIS SUBTITLE AND INCLUDES THE SUBMISSION OF THE REQUIRED
7 AMOUNT OF CLEAN ENERGY CREDITS; OR

8 (II) DEMONSTRATES THE AMOUNT OF ELECTRICITY SALES BY
9 WHICH THE ELECTRICITY SUPPLIER FAILED TO MEET THE APPLICABLE CLEAN
10 ENERGY PORTFOLIO STANDARD.

11 (B) IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE CLEAN
12 ENERGY PORTFOLIO STANDARD FOR THE APPLICABLE YEAR, THE ELECTRICITY
13 SUPPLIER SHALL PAY A COMPLIANCE FEE OF 2 CENTS FOR EACH KILOWATT HOUR OF
14 SHORTFALL INTO THE MARYLAND CLEAN ENERGY FUND ESTABLISHED UNDER §
15 7-706 OF THIS SUBTITLE.

16 (C) THE COMMISSION MAY ALLOW AN ELECTRICITY SUPPLIER TO SUBMIT
17 THE REPORT REQUIRED UNDER § 7-705(B)(4) OF THIS TITLE TO DEMONSTRATE
18 COMPLIANCE WITH THE CLEAN ENERGY PORTFOLIO STANDARD.

19 7-706.

20 (A) PURSUANT TO THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE
21 UNDER § 7-510 OF THIS TITLE, THE COMMISSION SHALL PROVIDE FOR AN
22 ELECTRICITY SUPPLIER TO RECOVER ACTUAL DOLLAR FOR DOLLAR COSTS
23 INCURRED, INCLUDING ANY COMPLIANCE FEE UNDER § 7-705 OF THIS SUBTITLE, IN
24 COMPLYING WITH A STATE MANDATED CLEAN ENERGY PORTFOLIO STANDARD.

25 (B) AN ELECTRICITY SUPPLIER MAY RECOVER ANY COMPLIANCE FEE IF:

26 (1) THE PAYMENT OF A COMPLIANCE FEE IS THE LEAST COST MEASURE
27 TO RATEPAYERS AS COMPARED TO THE PURCHASE OF ELIGIBLE ENERGY
28 RESOURCES TO COMPLY WITH A CLEAN ENERGY PORTFOLIO STANDARD; OR

29 (2) THERE ARE INSUFFICIENT ELIGIBLE ENERGY RESOURCES
30 AVAILABLE FOR THE ELECTRICITY SUPPLIER TO COMPLY WITH A CLEAN ENERGY
31 PORTFOLIO STANDARD.

32 (C) ANY COST RECOVERY UNDER THIS SECTION:

33 (1) MAY BE IN THE FORM OF A NONBYPASSABLE SURCHARGE TO
34 CURRENT APPLICABLE CUSTOMERS;

35 (2) SHALL BE DISCLOSED ON APPLICABLE CUSTOMER BILLS; AND

1 (3) MAY NOT INCLUDE THE COSTS FOR A PUBLIC UTILITY REGULATORY
2 POLICY ACT POWER PURCHASE CONTRACT CONTEMPLATED IN RATES OR
3 RESTRUCTURING PROCEEDINGS.

4 7-707.

5 (A) THERE IS A MARYLAND CLEAN ENERGY FUND.

6 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF
7 RESOURCES TO GENERATE CLEAN ENERGY IN THE STATE.

8 (C) THE FUND CONSISTS OF COMPLIANCE FEES PAID UNDER § 7-705 OF THIS
9 SUBTITLE.

10 (D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO §
11 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (E) (1) THE TREASURER SHALL HOLD THE FUND AND SHALL INVEST AND
13 REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE
14 MONEY MAY BE INVESTED.

15 (2) THE COMPTROLLER, IN CONJUNCTION WITH THE COMMISSION,
16 SHALL ACCOUNT FOR THE FUND.

17 (F) (1) BEGINNING IN THE FIFTH CALENDAR YEAR IN WHICH THE PAYMENT
18 OF COMPLIANCE FEES HAS OCCURRED, THE COMMISSION SHALL MAKE PAYMENTS
19 ON A PRO RATA BASIS TO OWNERS OF ELIGIBLE ENERGY RESOURCES PRODUCED IN
20 MARYLAND.

21 (2) PAYMENTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

22 (I) SHALL BE BASED ON THE NUMBER OF KILOWATT HOURS OF
23 ELECTRICITY SOLD AT RETAIL FROM ELIGIBLE ENERGY RESOURCES IN THE YEAR
24 PRECEDING YEAR; AND

25 (II) MAY NOT EXCEED 2 CENTS PER KILOWATT HOUR.

26 (3) DURING THE COURSE OF A YEAR SUBSEQUENT TO THE YEAR OF AN
27 ORIGINAL PAYMENT CALCULATED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS
28 SUBSECTION, THE COMMISSION, IN CONSIDERATION OF THE FISCAL STABILITY OF
29 THE FUND, MAY SUPPLEMENT THE ORIGINAL PAYMENT SO THAT THE TOTAL
30 PAYMENT EXCEEDS 2 CENTS PER KILOWATT HOUR.

31 7-708.

32 (A) (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A
33 MARKET-BASED CLEAN ELECTRICITY TRADING SYSTEM TO FACILITATE THE
34 CREATION AND TRANSFER OF CLEAN ENERGY CREDITS AMONG ELECTRICITY
35 SUPPLIERS.

1 (2) THE COMMISSION MAY CONTRACT WITH A FOR-PROFIT OR A
2 NONPROFIT CORPORATION TO ASSIST IN THE ADMINISTRATION OF THE
3 ELECTRICITY TRADING SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION.

5 (B) (1) THE SYSTEM SHALL INCLUDE A REGISTRY OF PERTINENT
6 INFORMATION REGARDING ALL:

7 (I) AVAILABLE CLEAN ENERGY CREDITS; AND

8 (II) CLEAN ENERGY CREDIT TRANSACTIONS AMONG ELECTRICITY
9 SUPPLIERS IN THE STATE, INCLUDING:

10 1. THE CREATION AND APPLICATION OF CLEAN ENERGY
11 CREDITS;

12 2. THE NUMBER OF CLEAN ENERGY CREDITS SOLD OR
13 TRANSFERRED; AND

14 3. THE PRICE PAID FOR THE SALE OR TRANSFER OF CLEAN
15 ENERGY CREDITS.

16 (2) (I) THE REGISTRY SHALL PROVIDE CURRENT INFORMATION TO
17 ELECTRICITY SUPPLIERS AND THE PUBLIC ON THE STATUS OF CLEAN ENERGY
18 CREDITS CREATED, SOLD, OR TRANSFERRED IN THE STATE.

19 (II) REGISTRY INFORMATION SHALL BE AVAILABLE BY COMPUTER
20 NETWORK ACCESS THROUGH THE INTERNET.

21 7-709.

22 (A) AN ELECTRICITY SUPPLIER MAY USE ACCUMULATED CLEAN ENERGY
23 CREDITS TO MEET THE CLEAN ENERGY PORTFOLIO STANDARD.

24 (B) AN ELECTRICITY SUPPLIER MAY SELL OR TRANSFER A CLEAN ENERGY
25 CREDIT.

26 (C) (1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS
27 SUBSECTION, A CLEAN ENERGY CREDIT SHALL EXIST FOR 6 YEARS FROM THE DATE
28 CREATED.

29 (2) A CLEAN ENERGY CREDIT MAY BE DIMINISHED OR EXTINGUISHED
30 BEFORE THE EXPIRATION OF 6 YEARS BY:

31 (I) THE ELECTRICITY SUPPLIER THAT CREATED THE CREDIT; OR

32 (II) A NONAFFILIATED ENTITY OF THE ELECTRICITY SUPPLIER:

33 1. THAT PURCHASED THE CREDIT FROM THE ELECTRICITY
34 SUPPLIER CREATING THE CREDIT; OR

1 [(iv)] (4) Electric companies in Maryland shall update the study
2 twice and submit each updated study to the Department of the Environment and the
3 Commission on or before December 31, 2003 and on or before December 31, 2005.

4 [(2)] (B) If, after review of the study required under paragraph (1) of this
5 subsection, the Department of the Environment determines that the emissions levels
6 impose a higher emission burden in Maryland, the Department of the Environment,
7 in consultation with the Commission, shall study the appropriateness,
8 constitutionality, and feasibility of establishing an air quality surcharge or other
9 mechanism to protect Maryland's environment in connection with the
10 implementation of customer choice of electricity suppliers.

11 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
12 shall take effect January 1, 2006.

13 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
14 Section 3 of this Act, this Act shall take effect October 1, 2003.